

IN THE DRAWING:

Applicants have amended Figures 1, 2, and 4-7. Replacement sheets of the drawing are enclosed with the current response.

REMARKS

Reconsideration of the present application is respectfully requested. Claims 1-20 were pending. Claims 1, 3, 6, 7, 10, 12, 14, and 17-20 have been amended. No new matter has been added. No claims have been added. Claims 2, 5, 11, and 13 have been canceled without prejudice. Claims 1, 3-4, 6-10, 12, and 14-20 remain pending.

Objection to the Drawings

Examiner objected to the drawings for minor informalities. Accordingly, Applicants have amended Figures 1, 2, and 4-7 to remove the informalities. Withdrawal of the objection is respectfully requested.

Objection to the Claims

Claim 11 is objected to as failing to further limit claim 10. Claim 11 has been canceled without prejudice, thus obviating the objection.

35 U.S.C. § 112 Rejections

Claims 1-3, 6, 8, 15, 17, 18, and 20 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse the rejections.

Regarding claims 1, 2, 6, 8, 17, 18, and 20, the Office Action asserted that these claims "have the functions of 'receiving', 'transmitting', 'writing', 'sending', 'assigning', 'applying', and allowing which are required to have a mean [sic] to support each of the

functions." (Office Action, p. 3, third paragraph). The Federal Circuit held that a rejection under § 112, second paragraph is appropriate if the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement. Morton Int'l, Inc. v. Cardinal Chem. Co., 5 F.3d 1464, 1470 (Fed. Cir. 1993). Furthermore, the MPEP explains that the definiteness of claim language must be analyzed in light of:

- (A) the context of the particular application disclosure
- (B) the teachings of the prior art, and
- (C) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time of the invention was made.

(MPEP 2173.02).

The context of the current application pertains to networked storage systems and the terms at issue (such as "receiving," "transmitting," "writing," etc.) have well known meaning in the pertinent art at the time the invention was made. As such, a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement. Moreover, the Federal Circuit held that breadth of a claim is not to be equated with indefiniteness. In re Miller, 441 F.2d 689 (Fed. Cir. 1971). Thus, the mere possibility of interpreting the terms at issue broadly does not render the claims indefinite. For at least the above reasons, claims 1, 2, 6, 8, 17, 18, and 20 meet the requirement under § 112, second paragraph. Withdrawal of the rejection is respectfully requested.

Regarding claims 3 and 15, the Office Action merely stated that claims 3 and 15 are "vague and failing to point out the subject matter which applicant claims as the invention." (Office Action, p. 3, fourth paragraph). Applicants respectfully traverse the rejection. The

Examiner is respectfully requested to provide an analysis or explanation on why the phrases(s) used in the claims are vague and indefinite. The Examiner's attention is respectfully directed to MPEP 2173.02.

Regarding claims 17 and 18, the Office Action alleged that the phrase "writing the access request to a file corresponding to the source filer on a volume ..." in claim 17 is vague and indefinite and the limitation contains multiple indefinite functions contradicting with each other (Office Action, p. 3, fifth paragraph). Accordingly, Applicants have amended claims 17 and 18 to more particularly point out and distinctly claim the subject matter the Applicants regard as the invention. Withdrawal of the rejection is respectfully requested.

Claim 20 is rejected under 35 U.S.C. § 112, second paragraph for lack of antecedent basis for the term "first filer." Accordingly, claim 20 has been amended to remove the informality. Withdrawal of the rejection is respectfully requested.

35 U.S.C. § 102(a) Rejections

Claims 1, 4, and 7-16 are rejected under 35 U.S.C. § 102(a) as being anticipated by Yanai et al. (US 6,502,205). Applicants respectfully traverse the rejection.

Claim 1 as amended recites "**partitioning a memory** of the second storage server into a first portion and second portion, the **first portion corresponding to the first storage server**, wherein said writing comprises writing the access request to a first portion of the memory, and when the first portion of the memory is full, writing the first portion of the memory to the data container."

In the Office Action, the memory in claim 1 is analogized to be the cache memory 64 in Yanai (Office Action, p. 8, line 5). According to Yanai, the secondary data storage system controller 44 includes the cache memory 64, which receives data from channel adapter 54 and disk adapter 42, as well as disk adapter 66, which controls writing data to and from secondary storage device 48 (Yanai, col. 9, ln. 37-41; Fig. 1). However, the cache memory 64 is not partitioned into a first portion and a second portion, the first portion corresponding to the first storage server. Therefore, Yanai fails to disclose at least the above limitation in claim 1. For at least this reason, Yanai fails to anticipate claim 1 as amended. Withdrawal of the rejection is respectfully requested.

Claim 10 as amended is not anticipated by Yanai for at least the reason discussed above with respect to claim 1. Withdrawal of the rejection is respectfully requested.

Claims 4, 7-9, 12, and 14-16 depend, directly or indirectly from claims 1 and 10, respectively. Thus, having additional limitations, claims 4, 7-9, 12, and 14-16 are not anticipated by Yanai for at least the reason discussed above with respect to claim 1. Withdrawal of the rejection is respectfully requested.

35 U.S.C. § 103(a) Rejections

Claims 2, 3, 5, and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yanai et al. (US 6,502,205) in view of March et al. (US 2003/0023828). Claim 5 has been canceled without prejudice, thus obviating the rejection. Applicants respectfully traverse the rejection on claims 2, 3, and 6.

Claims 2, 3, and 6 depend, directly or indirectly, from claim 1. Therefore, each of claims 2, 3, and 6 includes all the limitations set forth in claim 1. As discussed above with respect to claim 1, Yanai fails to disclose at least the limitation of “partitioning a memory”

of the second storage server into a first portion and second portion, **the first portion corresponding to the first storage server**, wherein said writing comprises writing the access request to a first portion of the memory, and when the first portion of the memory is full, writing the first portion of the memory to the data container.” Moreover, March fails to make up the deficiencies of Yanai.

March discloses a data storage system 95 having a memory cache 90, where the cached data can be stored in a memory device 70 when the cached block is full (March, paragraph [0040]). An allocator 75 can allocate a number of blocks into the cache 90 and each of the blocks may contain lines of data from different files (March, para. [0040]; Fig. 6). However, March does not disclose, suggest, or imply partitioning the memory cache 90 into a first and a second portions and the first portion corresponding to a first storage server. Therefore, a combination of Yanai and March still lacks at least the above limitation in each of claims 2, 3, 5, and 6. For at least this reason, claims 2, 3, and 6 are patentable over Yanai in view of March. Withdrawal of the rejection is respectfully requested.

Claims 17-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yanai et al. (US 6,502,205). Applicants respectfully traverse the rejection on claims 17-20. As admitted in the Office Action, Yanai failed to disclose removing the access request from the second memory. However, the Office Action argued that it would have been obvious to one of ordinary skill in the art at the time of the invention to remove the temporary data file stored in a memory once the data file is safely written into the secondary storage system (Office Action, p. 11, last paragraph). If the Examiner is relying on facts which are not of record as common knowledge to arrive at Applicants’ claim limitation noted above,

then the Examiner is respectfully requested to provide evidentiary support of such.

The Examiner's attention is directed to MPEP 2144.03(c). Absent such submission of evidentiary support, Applicants submit that the rejection of claims 17-20 under 35 U.S.C. § 103(a) based solely on Yanai does not render the claims unpatentable. Therefore, Applicants submit that claims 17-20 are patentable over the cited reference. Withdrawal of the rejection is respectfully requested.

Conclusion

For at least the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly solicited.

If the Examiner perceives any further obstacle to allowing the present application, he is invited to contact the undersigned at (408) 720-8300.

Pursuant to 37 C.F.R. 1.136(a)(3), Applicant hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

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